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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/811,314
Filing Date: March 26, 2004
Appellant(s): POHJA ET AL.

Phouphanomketh Ditthavong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 14, 2009 appealing from the Office action mailed July 14, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Shefchik, Rick. "Every day, more PC users join the hunt for alien life" Houston Chronicle. Oct. 15, 1999. pg. 6.

US 2001/0039497 A1 Hubbard 11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rick Shefchik: "Every day, more PC users join in hunt for alien life" (Oct 15, 1999) hereafter Shefchik, in view of Hubbard (US 2001/0039397 A1)**.

As per claim 1, Shefchik discloses a method, comprising:

sending processor-executable code to a plurality of users (page 2, paragraph 4; discloses that users are sent packets to be analyzed);

requesting that the users run the processor-executable code on network-coupled computing arrangements accessible by the users (page 2, paragraphs 7, 12 and 13; disclose that the program involves requesting users to download a packet of information and then analyze it, part of this is running the SETI code to analyze the packet of information);

running the processor-executable code on each of the computing arrangements to perform distributed computing tasks on the computing arrangement, the distributed computing tasks working in concert to solve a computational problem (page 2, paragraphs 13-15; disclose that the various packets of information are analyzed on

various computers and then all sent to SETI for further analysis, all of this computing devices work together to examine this vast amount of data); and

providing, as a result of the distributed computing task, a user-perceivable experience via the computing arrangements, the user-perceivable experience configured for purposes of marketing the commercial activity (page 2, paragraphs 12, 16 and 17; disclose as part of the process a screen saver is shown rendering frames or images onto the user's computer).

Shefchik fails to explicitly disclose where this method can be used for marketing commercial activity. Shefchik further fails to explicitly disclose tracking the distributed computing tasks performed by each contributing user; and providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Hubbard, which talks about a system and method for monitizing network connected user bases utilizing distributed processing systems, teaches that distributive networks can be used for various means including marketing commercial activity (page 4, paragraph 0052 and page 11, paragraph 0105; teach that in a distributive network advertisements could be sent to distributed devices).

Hubbard, further teaches tracking the distributed computing tasks performed by each contributing user (Page 13, paragraph [0123]; teaches that each user is tracked

for idle time, since the more idle time they have the more processing the machine is able to accomplish and the more incentives they are likely to receive. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user); and

providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (Page 4, paragraph [0052]; teaches that incentives are provided for being part of the distributed processing system, these incentives include sweepstakes, airline frequent-flyer miles, purchasing credits and vouchers, payments of money, monetary prizes, property prizes, free trips, time-share rentals, cruises, connectivity services, free or reduced cost Internet access, domain name hosting, mail accounts, participation in significant research projects, achievement of personal goals, or any other desired incentive or reward. The term user-perceivable experience is loosely disclosed in the applicant's specification as "This user-perceivable experience may be, for example, a graphic or video shown in a display" the term perceivable is defined by Merriam-Webster as 1 a**:** to attain awareness or understanding of **b:** to regard as being such 2**:** to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner

asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service).

Therefore, from this teaching of Hubbard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distributive system provided by Shefchik, with advertisements or other forms of marketing and the use of rewards for participation as taught by Hubbard, for the purposes of utilizing the computing power of customers, while trying to market them new products or services. This concept of utilizing a distributive network as shown in Hubbard would allow the service provider the ability to harness this vast computing

power at a minimal expense while still advertising products to the customer. By adding rewards and other incentives to the users they system encourages users to participate and stay active in the system, which would result a larger distributive computing network and allow for more tasks to be performed.

As per claim 2, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computational problem comprises a processor-implemented creation of a product related to the commercial activity (page 4, paragraph 0055 and page 11, paragraph 0105; teaches that the computational problem could be any number of things and could be related to the commercial activity).

The Examiner further asserts that the type of problem itself is considered to be non-functional descriptive material since it does not change or alter the steps of the method or structure of the system in any way. Therefore it is given little, if any patentable weight.

As per claim 3, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computational problem comprises rendering of video (page 4, paragraph 0055; teaches that it can be done for graphics rendering).

The Examiner further asserts that the type of problem itself is considered to be non-functional descriptive material since it does not change or alter the steps of the method or structure of the system in any way. Therefore it is given little, if any patentable weight.

As per claim 4, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Shefchik further discloses wherein the user-perceivable experience comprises displaying of rendered frames on the computing arrangements (page 2, paragraph 12; disclose that the program acts as a screen saver rendering frames for the user).

As per claim 5, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the commercial activity comprises creation of a motion picture (page 4, paragraph 0055 and page 11, paragraph 0105; teaches that it can be done for graphics rendering it would have been obvious that these frames could have been for a motion picture).

The Examiner further asserts that the type of commercial activity itself is considered to be non-functional descriptive material since it does not change or alter the steps of the method or structure of the system in any way. Therefore it is given little, if any patentable weight.

As per claim 6, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein two or more of the computing arrangements perform the distributed computing tasks in a peer-to-peer arrangement (page 12, paragraph 0116; teaches that the systems can work in a peer-to-peer arrangement).

As per claim 7, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computing arrangements perform the distributed computing tasks in coordination with a centralized server

arrangement (page 12, paragraph 0116; teaches that the system can work with a centralized server arrangement).

As per claim 8, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Shefchik further discloses wherein the distributed computing tasks include gathering input from the users of the computing arrangements (page 2, paragraph 14; discloses that the users of the system submit data to SETI).

As per claim 9, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Shefchik further discloses wherein the distributed computing tasks include storing data on the computing arrangements (page 2, paragraph 13; discloses that the information is downloaded on to the users system before being analyzed).

As per claim 10, Shefchik discloses a computer-readable medium having instructions stored thereon which are executable by a computing arrangement (page 2, paragraph 12; discloses that users must download software from the host site, this software enabling them to partake in the distributive computing process) for performing steps comprising:

performing a distributed computing task on a processor of the computing arrangement, wherein the distributed computing task is performed in concert with one or more other computing entities to solve a computational problem (page 2, paragraph 13-15; discloses that the data is analyzed using the various computing devices and all of the data is sent to SETI for further analysis);

providing, as a result of the distributed computing task, a user-perceivable experience via an output of the computer arrangement, the user-perceivable experience

configured for purposes of promoting a commercial marketing activity (page 2, paragraphs 12, 16 and 17; disclose as part of the process a screen saver is shown rendering frames or images onto the user's computer).

Shefchik fails to explicitly disclose where this method can be used for marketing commercial activity. Shefchik further fails to explicitly disclose tracking the distributed computing tasks performed by each contributing user of the computing arrangement; and providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangement, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Hubbard, which talks about a system and method for monitizing network connected user bases utilizing distributed processing systems, teaches that distributive networks can be used for various means including marketing commercial activity (page 4, paragraph 0052 and page 11, paragraph 0105; teach that in a distributive network advertisements could be sent to distributed devices).

Hubbard, further teaches tracking the distributed computing tasks performed by each contributing user (Page 13, paragraph [0123]; teaches that each user is tracked for idle time, since the more idle time they have the more processing the machine is able to accomplish and the more incentives they are likely to receive. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is

shown that the amount of work performed is tracked to determine the amount or reward received for each user); and

providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (Page 4, paragraph [0052]; teaches that incentives are provided for being part of the distributed processing system, these incentives include sweepstakes, airline frequent-flyer miles, purchasing credits and vouchers, payments of money, monetary prizes, property prizes, free trips, time-share rentals, cruises, connectivity services, free or reduced cost Internet access, domain name hosting, mail accounts, participation in significant research projects, achievement of personal goals, or any other desired incentive or reward. The term user-perceivable experience is loosely disclosed in the applicant's specification as "This user-perceivable experience may be, for example, a graphic or video shown in a display" the term perceivable is defined by Merriam-Webster as 1 a**:** to attain awareness or understanding of **b:** to regard as being such 2**:** to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have

performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service).

Therefore, from this teaching of Hubbard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distributive system provided by Shefchik, with advertisements or other forms of marketing and the use of rewards for participation as taught by Hubbard, for the purposes of utilizing the computing power of customers, while trying to market them new products or services. This concept of utilizing a distributive network as shown in Hubbard would allow the service provider the ability to harness this vast computing power at a minimal expense while still advertising products to the customer. By adding rewards and other incentives to the users they system encourages users to participate and stay active in the system, which would result a larger distributive computing network and allow for more tasks to be performed.

As per claim 11, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computational problem comprises a processor-implemented creation of a product related to the commercial marketing activity (page 4, paragraph 0055 and page 11, paragraph 0105; teaches that the computational problem could be any number of things and could be related to the commercial activity).

The Examiner further asserts that the type of problem itself is considered to be non-functional descriptive material since it does not change or alter the steps of the method or structure of the system in any way. Therefore it is given little, if any patentable weight.

As per claim 12, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computing arrangement is coupled to one or more of the computing entities in a peer-to-peer arrangement to perform the distributed computing task (page 12, paragraph 0116; teaches that the systems can work in a peer-to-peer arrangement).

As per claim 13, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the distributed computing task is performed in coordination with a centralized server arrangement (page 12, paragraph 0116; teaches that the system can work with a centralized server arrangement).

As per claim 14, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Shefchik further discloses wherein the distributed computing task

includes gathering input from the user of the computing arrangement (page 2, paragraph 14; discloses that the users of the system submit data to SETI).

As per claim 15, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Shefchik further discloses wherein the distributed computing task comprises storing data on the computing arrangement (page 2, paragraph 13; discloses that the information is downloaded on to the users system before being analyzed).

As per claim 16, Shefchik discloses a system comprising:

a plurality of network-coupled computing arrangements, each computing arrangement including a processor coupled to a memory (page 2, paragraph 12; discloses that all users must have a set number of ram and hard drive space and since they are performed on a computer must include a processor), the memory containing instructions configured to cause the processor to,

perform a distributed computing task on each computing arrangement, the distributed computing task operating in concert with other computing arrangements of the plurality of computing arrangements to solve a computation problem (page 2, paragraphs 13-15; disclose that the data is analyzed using the various computing devices and all of the data is sent to SETI for further analysis); and

initiate a user-perceivable experience on each computing arrangement as a result of the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity (page 2, paragraphs 12, 16 and 17; disclose as part of the process a screen saver is shown rendering frames or images onto the users computer).

Shefchik fails to explicitly disclose where this method can be used for marketing commercial activity. Shefchik further fails to explicitly disclose tracking the distributed computing tasks performed by each contributing user of each computing arrangement; and initiate a user-perceivable experience on each computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Hubbard, which talks about a system and method for monitizing network connected user bases utilizing distributed processing systems, teaches that distributive networks can be used for various means including marketing commercial activity (page 4, paragraph 0052 and page 11, paragraph 0105; teach that in a distributive network advertisements could be sent to distributed devices).

Hubbard, further teaches tracking the distributed computing tasks performed by each contributing user of each computing arrangement (Page 13, paragraph [0123]; teaches that each user is tracked for idle time, since the more idle time they have the more processing the machine is able to accomplish and the more incentives they are likely to receive. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user); and

initiate a user-perceivable experience on each computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (Page 4, paragraph [0052]; teaches that incentives are provided for being part of the distributed processing system, these incentives include sweepstakes, airline frequent-flyer miles, purchasing credits and vouchers, payments of money, monetary prizes, property prizes, free trips, time-share rentals, cruises, connectivity services, free or reduced cost Internet access, domain name hosting, mail accounts, participation in significant research projects, achievement of personal goals, or any other desired incentive or reward. The term user-perceivable experience is loosely disclosed in the applicant's specification as "This user-perceivable experience may be, for example, a graphic or video shown in a display" the term perceivable is defined by Merriam-Webster as 1 a**:** to attain awareness or understanding of **b:** to regard as being such 2**:** to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface.

Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service).

Therefore, from this teaching of Hubbard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distributive system provided by Shefchik, with advertisements or other forms of marketing and the use of rewards for participation as taught by Hubbard, for the purposes of utilizing the computing power of customers, while trying to market them new products or services. This concept of utilizing a distributive network as shown in Hubbard would allow the service provider the ability to harness this vast computing power at a minimal expense while still advertising products to the customer. By adding rewards and other incentives to the users they system encourages users to participate and stay active in the system, which would result a larger distributive computing network and allow for more tasks to be performed.

As per claim 17, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computational problem

comprises a processor-implemented creation of a product related to the commercial marketing activity (page 4, paragraph 0055 and page 11, paragraph 0105; teaches that the computational problem could be any number of things and could be related to the commercial activity).

The Examiner further asserts that the type of problem itself is considered to be non-functional descriptive material since it does not change or alter the steps of the method or structure of the system in any way. Therefore it is given little, if any patentable weight.

As per claim 18, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein two or more of the computing arrangements are coupled in a peer-to-peer arrangement to perform the distributed computing task (page 12, paragraph 0116; teaches that the systems can work in a peer-to-peer arrangement).

As per claim 19, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches a network-coupled centralized server arrangement, wherein the computing arrangements perform the distributed computing task in coordination with the centralized server arrangement (page 12, paragraph 0116; teaches that the system can work with a centralized server arrangement).

As per claim 20, Shefchik discloses an apparatus (page 2, paragraph 7; discloses that various users are working together for a “distributive computing” project), comprising:

a processor coupled to a memory and a user interface (page 2, paragraph 12; discloses that all users must have a set number of ram and hard drive space and since they are performed on a computer must include a processor), wherein the processor causes the apparatus to,

perform a distributed computing task operating in concert with other computing arrangements of the plurality of computing arrangements to solve a computational problem (page 2, paragraphs 13-15; disclose that the data is analyzed using the various computing devices and all of the data is sent to SETI for further analysis); and

initiate a user-perceivable experience on the user interface of the computing arrangement as a result of the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity (page 2, paragraphs 12, 16 and 17; disclose as part of the process a screen saver is shown rendering frames or images onto the user's computer).

Shefchik fails to explicitly disclose where this method can be used for marketing commercial activity. Shefchik further fails to explicitly disclose tracking the distributed computing tasks performed by each contributing user of the apparatus; and initiate a user-perceivable experience on the user interface of the computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Hubbard, which talks about a system and method for monitizing network connected user bases utilizing distributed processing systems, teaches that distributive networks can be used for various means including marketing commercial activity (page 4, paragraph 0052 and page 11, paragraph 0105; teach that in a distributive network advertisements could be sent to distributed devices).

Hubbard, further teaches tracking the distributed computing tasks performed by each contributing user of the apparatus (Page 13, paragraph [0123]; teaches that each user is tracked for idle time, since the more idle time they have the more processing the machine is able to accomplish and the more incentives they are likely to receive. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user); and

initiate a user-perceivable experience on the user interface of the computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (Page 4, paragraph [0052]; teaches that incentives are provided for being part of the distributed processing system, these incentives include sweepstakes, airline frequent-flyer miles, purchasing credits and vouchers, payments of money, monetary prizes, property prizes, free trips, time-share rentals, cruises, connectivity services, free or reduced cost Internet access,

domain name hosting, mail accounts, participation in significant research projects, achievement of personal goals, or any other desired incentive or reward. The term user-perceivable experience is loosely disclosed in the applicant's specification as "This user-perceivable experience may be, for example, a graphic or video shown in a display" the term perceivable is defined by Merriam-Webster as 1 a**:** to attain awareness or understanding of **b:** to regard as being such 2**:** to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service).

Therefore, from this teaching of Hubbard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distributive system provided by Shefchik, with advertisements or other forms of marketing and the use of rewards for participation as taught by Hubbard, for the purposes of utilizing the computing power of customers, while trying to market them new products or services. This concept of utilizing a distributive network as shown in Hubbard would allow the service provider the ability to harness this vast computing power at a minimal expense while still advertising products to the customer. By adding rewards and other incentives to the users they system encourages users to participate and stay active in the system, which would result a larger distributive computing network and allow for more tasks to be performed.

As per claim 21, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the computational problem comprises a processor-implemented creation of a product related to the commercial marketing activity (page 4, paragraph 0055 and page 11, paragraph 0105; teaches that the computational problem could be any number of things and could be related to the commercial activity).

The Examiner further asserts that the type of problem itself is considered to be non-functional descriptive material since it does not change or alter the steps of the method or structure of the system in any way. Therefore it is given little, if any patentable weight.

As per claim 22, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the apparatus is coupled to one or more of the computing entities in a peer-to-peer arrangement to perform the distributed computing task (page 12, paragraph 0116; teaches that the systems can work in a peer-to-peer arrangement).

As per claim 23, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the apparatus performs the distributed computing task in coordination with a centralized server arrangement (page 12, paragraph 0116; teaches that the system can work with a centralized server arrangement).

As per claim 24, the combination of Shefchik and Hubbard teaches the above-enclosed invention, Hubbard further teaches wherein the apparatus comprises a mobile terminal (page 3, paragraph 0048; teaches that the devices that can be used in such a system include wireless devices or mobile terminals).

As per claim 25, Shefchik discloses a system, comprising:

means for sending process-executable code to a plurality of users (page 2, paragraph 4; discloses that users are sent packets to be analyzed);

means for requesting that the users run the processor-executable code on network-coupled computing arrangements accessible by the users (page 2, paragraphs 7, 12 and 13; disclose that the program involves requesting users to download a packet of information and then analyze it, part of this is running the SETI code to analyze the packet of information);

means for performing a distributed computing task on each of the computing arrangements by running the processor-executable code on the computing arrangements, the distributed computing tasks working in concert to solve a computational problem (page 2, paragraphs 13-15; disclose that the various packets of information are analyzed on various computers and then all sent to SETI for further analysis, all of this computing devices work together to examine this vast amount of data); and

means for providing, as a result of the distributed computing task, a user-perceivable experience via the computing arrangements, the user-perceivable experience configured for purposes of marketing the commercial activity (page 2, paragraphs 12, 16 and 17; disclose as part of the process a screen saver is shown rendering frames or images onto the users computer).

Shefchik fails to explicitly disclose where this method can be used for marketing commercial activity. Shefchik further fails to explicitly disclose means for tracking the distributed computing tasks performed by each contributing user; and means for providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Hubbard, which talks about a system and method for monitizing network connected user bases utilizing distributed processing systems, teaches that distributive

networks can be used for various means including marketing commercial activity (page 4, paragraph 0052 and page 11, paragraph 0105; teach that in a distributive network advertisements could be sent to distributed devices).

Hubbard, further teaches means for tracking the distributed computing tasks performed by each contributing user (Page 13, paragraph [0123]; teaches that each user is tracked for idle time, since the more idle time they have the more processing the machine is able to accomplish and the more incentives they are likely to receive. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user); and

means for providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (Page 4, paragraph [0052]; teaches that incentives are provided for being part of the distributed processing system, these incentives include sweepstakes, airline frequent-flyer miles, purchasing credits and vouchers, payments of money, monetary prizes, property prizes, free trips, time-share rentals, cruises, connectivity services, free or reduced cost Internet access, domain name hosting, mail accounts, participation in significant research projects, achievement of personal goals, or any other desired incentive or

reward. The term user-perceivable experience is loosely disclosed in the applicant's specification as "This user-perceivable experience may be, for example, a graphic or video shown in a display" the term perceivable is defined by Merriam-Webster as 1 a**:** to attain awareness or understanding of **b:** to regard as being such 2**:** to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service).

Therefore, from this teaching of Hubbard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the

distributive system provided by Shefchik, with advertisements or other forms of marketing and the use of rewards for participation as taught by Hubbard, for the purposes of utilizing the computing power of customers, while trying to market them new products or services. This concept of utilizing a distributive network as shown in Hubbard would allow the service provider the ability to harness this vast computing power at a minimal expense while still advertising products to the customer. By adding rewards and other incentives to the users they system encourages users to participate and stay active in the system, which would result a larger distributive computing network and allow for more tasks to be performed.

As per claim 26, Shefchik discloses a method, comprising:

receiving processor-executable code at a computing arrangement capable of being coupled to a network (page 2, paragraph 4; discloses that users are sent packets to be analyzed, from this it is shown that the users of the system receive the file);

executing the processor-executable code the computing arrangement to perform a distributed computing task that works in concert with other computing arrangements to solve a computational problem (page 2, paragraphs 13-15; disclose that the various packets of information are analyzed on various computers and then all sent to SETI for further analysis, all of this computing devices work together to examine this vast amount of data); and

providing, as a result of the distributed computing task, a user-perceivable experience via the computing arrangement for purposes of marketing the commercial

activity (page 2, paragraphs 12, 16 and 17; disclose as part of the process a screen saver is shown rendering frames or images onto the users computer).

Shefchik fails to explicitly disclose where this method can be used for marketing commercial activity. Shefchik further fails to explicitly disclose tracking the distributed computing tasks performed by each contributing user of the computing arrangement; and providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangement for purposes of marketing a commercial activity, wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Hubbard, which talks about a system and method for monitizing network connected user bases utilizing distributed processing systems, teaches that distributive networks can be used for various means including marketing commercial activity (page 4, paragraph 0052 and page 11, paragraph 0105; teach that in a distributive network advertisements could be sent to distributed devices).

Hubbard, further teaches tracking the distributed computing tasks performed by each contributing user of the computing arrangement (Page 13, paragraph [0123]; teaches that each user is tracked for idle time, since the more idle time they have the more processing the machine is able to accomplish and the more incentives they are likely to receive. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received,

from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user); and

providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangement for purposes of marketing a commercial activity, wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (Page 4, paragraph [0052]; teaches that incentives are provided for being part of the distributed processing system, these incentives include sweepstakes, airline frequent-flyer miles, purchasing credits and vouchers, payments of money, monetary prizes, property prizes, free trips, time-share rentals, cruises, connectivity services, free or reduced cost Internet access, domain name hosting, mail accounts, participation in significant research projects, achievement of personal goals, or any other desired incentive or reward. The term user-perceivable experience is loosely disclosed in the applicant's specification as "This user-perceivable experience may be, for example, a graphic or video shown in a display" the term perceivable is defined by Merriam-Webster as 1 a**:** to attain awareness or understanding of **b:** to regard as being such 2**:** to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the

distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service).

Therefore, from this teaching of Hubbard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distributive system provided by Shefchik, with advertisements or other forms of marketing and the use of rewards for participation as taught by Hubbard, for the purposes of utilizing the computing power of customers, while trying to market them new products or services. This concept of utilizing a distributive network as shown in Hubbard would allow the service provider the ability to harness this vast computing power at a minimal expense while still advertising products to the customer. By adding rewards and other incentives to the users they system encourages users to participate and stay active in the system, which would result a larger distributive computing network and allow for more tasks to be performed.

(10) Response to Argument

3. In response to the appellant's argument that, "However, the recognition that an idle computing system can perform more tasks and the recognition of using incentives based on the capabilities of systems, and that more capable client systems would generate more incentive values does not disclose, and is not suggestive of tying a reward to "a user-perceivable experience that is governed based on a quantity of the distributed computing tasks performed by each contributing user."," the Examiner respectfully disagrees. Page 13, paragraph [0123] of Hubbard states that the more processing a client performs the more incentives they will receive, thus the rewards or incentives are based on the quantity of distributed computing tasks performed since the processing is the distributed computing task and the quantity determines the amount of incentives or rewards granted or awarded the client. This concept is also shown on page 7, paragraphs [0075]-[0077] which show that the faster or better the client system performs the workload the more entries or reward the client would receive again teaching the concept that the reward is based on the quantity of tasks performed. Further page 4, paragraphs [0052] and [0055], shows that the incentive can be any sort of reward and include such things as monetary prizes, purchase credits and vouchers, and sweepstakes, and the project itself can be any type of project including graphics rendering. From this it is shown that the references does in fact disclose a user-perceivable experience that is governed based on a quantity of distributed computing tasks performed by each contributing user, since the user or client is given a reward and that reward is based on the number of tasks they have performed. Thus the client can

perform a number of tasks and receive a reward or experience based on the tasks performed. Therefore the rejections have been maintained.

4. In response to the appellant's argument that, "neither Shefchik, nor Hubbard discloses or suggests "providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user," the Examiner has failed to establish a prima facie case of obviousness," the Examiner respectfully disagrees. As shown above Hubbard does in fact teach rewarding a client based on the number of tasks they client has performed for the system. Further Shefchik also discloses that the user can be shown a display or graphic of the information they are processing (Page 2, paragraphs 12-16), the SETI project disclosed in Shefchik is a distributive computing system similar to Hubbard, Hubbard merely rewards its clients with incentives which include monetary prizes or some type of incentive rather then just the reward of taking part of the research project itself. In Hubbard as explained above the user is provided rewards for taking part in the project and those rewards are based on the amount of tasks performed, from this the Examiner asserts that the combination of Shefchik and Hubbard do in fact disclose the limitations of the claims as currently written and therefore the rejection has been maintained.

5. In response to the appellant's argument that, "At pages 4-5 of the Final Action, the Examiner appears to recognize this lack of "a user-perceivable experience that is

governed based on a quantity of the distributed computing tasks performed by each contributing user," in the applied references because the Examiner offers a tortured interpretation of "a user-perceivable experience" to the point of unreasonableness, in an attempt to justify the proposed improper combination of references. In particular, the Examiner identifies a definition of this term in the instant specification, as a "user-perceivable experience may be, for example, a graphic or video shown in a display," employs a dictionary definition of "perceivable" as meaning "to attain awareness or understanding of," "to regard as such," or "to become aware of through the senses," and concludes from this that the user in Hubbard "can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface"," the Examiner respectfully disagrees. The Examiner has never stated a lack of a "user-perceivable experience" the Examiner has merely shown that the appellant has failed to define "user-perceivable experience" in a manner which one of ordinary skill in the art would have limited it to just "graphic or video". As shown the appellant has stated in their originally filed specification specifically paragraph [0055], "This user-perceivable experience **may be**, for example, a graphic or video shown in a display". From this it is shown that this is merely one example of what a user-perceivable experience could be, this is not a limiting definition. In order to give the claims the broadest reasonable interpretation the Examiner has provided known definitions in an attempt to properly determine the scope of the limitation. In that perceivable is defined

by Merriam-Webster as 1 a: to attain awareness or understanding of **b:** to regard as being such 2: to become aware of through the senses http://www.merriam-webster.com/dictionary/perceivable. From this the Examiner asserts that a user-perceivable experience is any experience that the user of the system is able to perceive or is aware of through the senses. Thus since the user or client is aware of their sweepstakes entries they have be provided a user-perceivable experience. Hubbard Page 18, paragraph [0158]; teaches that the user through the use of their system can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface. Page 7, paragraphs [0075]-[0077]; teaches that based on how much work the system is performing the number of entries into the sweepstakes are received, from this it is shown that the amount of work performed is tracked to determine the amount or reward received for each user. Further the Examiner asserts that the user-perceivable experience could also be the Free Internet Offer since the user of the system can see they internet access and it is governed based on the participation in the distributive processing system, for example since they participate the system governs they are allowed access to the free Internet service the quantity of the tasks in this could be as little as one event entitles them to a period of free Internet service. The Examiner asserts that the interpretation of the claims is not “tortured” or unreasonable as suggested by the appellant, rather it is the broadest reasonable interpretation based on known definitions of the terms used in the claims. Therefore, the

Examiner asserts that the prior art reads over the claims as currently written and the rejection has been maintained.

6. In response to the appellant's argument that, "As the Examiner has correctly asserted, the claimed "user-perceivable experience" may be "a graphic or video shown in a display." As claimed, "access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user." The entry into a sweepstakes as a reward for distributive processing is not a "user-perceivable experience" as it is not "a graphic or video shown in a display." In any event, even if a user could visit a website in Hubbard to view a number of sweepstakes entries and even if the number of entries is based on a number of tasks performed, access to such a website to view the number of entries does not constitute "access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user" because a user can access the website at any time and such access to the website itself is clearly not "governed based on a quantity of the distributed computing tasks performed by each contributing user" even if the number of sweepstakes entries is interpreted as being "governed based on a quantity of the distributed computing tasks performed by each contributing user."," the Examiner respectfully disagrees. As shown above the rewards taught by Hubbard are in fact a "user-perceivable experience", the appellant has improperly limited the claim limitation to "a graphic or video shown in a display" as shown above it may be "a graphic or video shown in a display" but it does not have to be, it can also be any experience that the user of the system is able to perceive or is aware of through the senses. As far

Hubbard failing to show the access to the rewards not being governed by the quantity, the Examiner respectfully disagrees. If the user or client performs no task they will access the website but in turn access no rewards because the rewards themselves are given based on the amount of tasks performed as shown above. Therefore the access to the rewards or the "user-perceivable experience" is "governed based on a quantity of the distributed computing tasks performed by each contributing user" since the user can receive no reward with out completing a task. The rejections have therefore been maintained.

7. In response to the appellant's argument that, "the fact that a sweepstakes entry may be awarded for a quantity of distributed computing tasks does not make the award of such sweepstakes entries "a user-perceivable experience" as the user is not perceiving any experience, as, for example, by viewing a graphic or a video, based on a number of sweepstakes entries or based on "a quantity of the distributed computing tasks performed by each contributing user."," the Examiner respectfully disagrees. As shown above the appellant is trying to improperly limited the claim limitation to "a graphic or video shown in a display" as shown above it may be "a graphic or video shown in a display" but it does not have to be, it can also be any experience that the user of the system is able to perceive or is aware of through the senses. Further as shown above the sweepstakes is only one possible reward other rewards include Internet access, domain name hosting, or mail accounts any of these is perceivable by the user since they can see it take place. For these reasons in addition to the reasons

set forth above the Examiner asserts that the combined references read over the claims as currently written and the rejections have therefore been maintained.

8. In response to the appellant's argument that, "In neither Shefchik nor Hubbard is there any correlation between "a quantity of the distributed computing tasks performed by each contributing user" and "access to the user perceivable experience," as claimed," The Examiner respectfully disagrees. As shown above when combined the references so there is "a quantity of the distributed computing tasks performed by each contributing user," both references show users performing distributives tasks. Further Hubbard teaches "access to the user perceivable experience" since the clients or users are rewarded for their efforts with different rewards such as a sweepstakes, Internet access, domain name hosting, mail accounts, or any other desired incentive or reward. Any of these is perceivable by the user since they can see it take place. For these reasons in addition to the reasons set forth above the Examiner asserts that the combined references read over the claims as currently written and the rejections have therefore been maintained.

9. In response to the appellant's argument that, "the Examiner's interpretation of Hubbard's sweepstakes entries as being a "user-perceivable experience" and the Examiner's conclusion of obviousness regarding the instant claimed subject matter, are unreasonable and respectfully, flawed," the Examiner respectfully disagrees. As shown above the appellant is improperly limited the claim limitation to "a graphic or video shown in a display" as shown above it may be "a graphic or video shown in a display" but it does not have to be, it can also be any experience that the user of the system is

able to perceive or is aware of through the senses. Further as shown above the sweepstakes is only one possible reward other rewards include Internet access, domain name hosting, or mail accounts any of these is perceivable by the user since they can see it take place. Given the known definitions of the recited limitations the Examiner asserts that the interpretation is reasonable and one of ordinary skill in the art would have found it obvious that these limitations are directed toward more then just a graphic or video on a display. For these reasons in addition to the reasons set forth above the Examiner asserts that the combined references read over the claims as currently written and the rejections have therefore been maintained.

10. In response to the appellant's argument that, "neither Shefchik nor Hubbard discloses or suggests "providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user."," the Examiner respectfully disagrees. As stated above when combined the references so there is "a quantity of the distributed computing tasks performed by each contributing user," both references show users performing distributives tasks. Further Hubbard teaches "access to the user perceivable experience" since the clients or users are rewarded for their efforts with different rewards such as a sweepstakes, Internet access, domain name hosting, mail accounts, or any other desired incentive or reward. Any of these is perceivable by the user since they can see it take place. For these

reasons in addition to the reasons set forth above the Examiner asserts that the combined references read over the claims as currently written and the rejections have therefore been maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Paul R. Fisher

/PAUL R FISHER/

Examiner, Art Unit 3689

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